

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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INDIAN HARBOR INSURANCE COMPANY, : Case No. 12 CIV 5787 (JGK)  
: ECF Case

: Plaintiff, : **ORAL ARGUMENT REQUESTED**

: -against- :  
: THE CITY OF SAN DIEGO, : **INDIAN HARBOR INSURANCE  
: COMPANY'S NOTICE OF MOTION  
: AND MOTION FOR SUMMARY  
: JUDGMENT**

: Defendant. :  
: Courtroom: 12B  
: Judge: Hon. John G. Koeltl

: Complaint Filed: July 27, 2012  
: F.A.C. Filed: August 14, 2012

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TO THE CITY OF SAN DIEGO, ITS COUNSEL, AND THE COURT:

PLEASE TAKE NOTICE that plaintiff Indian Harbor Insurance Company hereby moves this Court for summary judgment against the City of San Diego based on the City's late notice to Indian Harbor of each of the three underlying claims that are at issue in this lawsuit.

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This motion is based on this Motion, the Memorandum of Law, the Declaration of Max H. Stern, the Declaration of J. Robert McMahon, the Request for Judicial Notice, and the Local Rule 56.1 statement, all served concurrently herewith, and on all papers and pleadings on file herein.

Dated: February 1, 2013

**DUANE MORRIS LLP**

Attorneys for Plaintiff Indian Harbor Insurance Company

By: /s/ Max H. Stern  
Max H. Stern

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